

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

BUFFALO MACHINE TOOLS OF NIAGARA, INC.

Case No. 01-16732 K

Debtor

After a hearing, the Court disallows \$2500 of the \$5000 sought by Charles Termini, Esq.

The testimony of Theresa Silva is not deserving of credit. She clearly is ignorant of the substance, necessity and demands of the work performed by Mr. Termini. But that has not prevented her from challenging the veracity of Mr. Termini's application and time sheets. What was elicited from her is the simple fact that she doesn't want to pay Mr. Termini any more than what she thinks he deserves, and she has raised bogus challenges to his veracity as the "means" to her own "ends."

On the other hand, Mr. Termini cannot unilaterally change a \$7500 agreed fee into a "time and expense" relationship once the relationship between him and his client soured.

This case (and all other Chapter 11 cases) should be the subject of a time-expense fee agreement - - not a flat fee. Faced with the \$7500 flat fee in this case, the Court will award, in addition to the earlier allowance, only \$2500 of the \$5000 sought. This award is on a

quantum meruit basis - - it is compensation, without reward, for the value of his services.

Dated: Buffalo, New York
October 21, 2002

/s/ Michael J. Kaplan

U.S.B.J.